

1 John Gabor  
Kay Gabor  
590 Smokey Court  
Campbell, CA. 95008-3717  
*No telephone calls or threats*  
Plaintiffs

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RECEIVED

2008 JUN -5 PM 2: 21

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

JOHN GABOR and KAY GABOR,

CASE NO. 5:07-cv-06091-RMW

Plaintiffs,

**PLAINTIFFS NOTICE OF EXPERT WITNESS  
RONALD M WHYTE; JAMES WARE  
JEREMY FOGEL AND WRITTEN COPY OF  
CONTRACT WITH DEFENDANTS**

C/RM  
UNITED STATES OF AMERICA, et al.,  
Defendants,

TO THE UNITED STATES DISTRICT COURT JUDGE, *and plaintiff's witness*, WHYTE AND ALL  
PARTIES, NOT IN DEFAULT:

1. Plaintiffs John and Kay Gabor hereby file this their **PLAINTIFFS NOTICE OF EXPERT WITNESS RONALD M. WHYTE, JAMES WARE, AND JEREMY FOGEL AND WRITTEN COPY OF MAY 6<sup>TH</sup>, 2008 WRITTEN CONTRACT OF JUDGES WITH DEFENDANTS and notice of distribution to editor 20/20 for re-broadcast of series on "puppy mill" related to Judge White's testimony that overly large Maltese non fertile male and teacup Yorkshire Terrier female constitute a "puppy mill" thereby terminating ALL CONSTITUTIONAL RIGHTS of plaintiffs who paid \$350.00 for JURY TRIAL to re-establish federal constitutional rights for all citizens owning "personal property purchased in commerce.**
2. Expert witness will testify to the "civil RICO elements of conspiracy" as defined in headnotes of *Salinas v. United States*, 118 S. Ct. 469 (1997), as follows:
  17. Conspiracy 41  
If conspirators have plan which calls for some conspirators to perpetrate crime and others to provide support, supporters are as guilty as perpetrators.
  18. Conspiracy 28(1)  
It is possible for person to conspire for commission of crime by third person.

**19. Conspiracy 40.2**

Person may be liable for conspiracy even though he was incapable of committing substantive offense.

**20. Conspiracy 24.5**

To be convicted of conspiracy, conspirator must intend to further endeavor which, if completed, would satisfy all of elements of substantive criminal offense, but it suffices that he adopt goal of furthering or facilitating criminal endeavor.

**21. Conspiracy 24(1)**

Conspirator can adopt goal of furthering or facilitating criminal endeavor as required for conspiracy conviction in any number of ways short of agreeing to undertake all of acts necessary for crime's completion.

**22. Conspiracy 24(1)**

One can be conspirator by agreeing to facilitate only some of acts leading to substantive offense.

**23. Conspiracy 28(2)**

Conspiracy may exist and be punished whether or not substantive crime ensues, for conspiracy is distinct evil, dangerous to public, and so punishable in itself.

3. Attached hereto and incorporated herein:

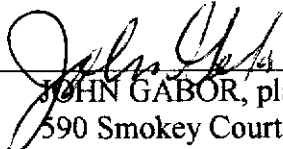
- (1) May 6, 2008 written demand to judge to enforce contract by defendant;
- (2) Transcript of origination of contract on January 18, 2008; and
- (3) advertisement of 20/20 broadcast.

**CERTIFICATION**


4. Plaintiffs John Gabor and Kay Gabor, do hereby certify under penalty of perjury that the foregoing is of our personal knowledge, being true and correct and in compliance with FRCP 2008 Edition (West)..

Respectfully submitted,

DATED: June 5, 2008

  
\_\_\_\_\_  
JOHN GABOR, plaintiff  
590 Smokey Court  
Campbell, CA 95008

DATED: June 5, 2008

  
\_\_\_\_\_  
KAY GABOR, plaintiff  
590 Smokey Court  
Campbell, CA 95008

**Burton  
Volkman  
& Schmal**  
LLP • ATTORNEYS AT LAW

133 Mission Street  
Suite 102  
Santa Cruz, CA 95060  
(831) 425-5023  
Fax: (831) 427-3159  
www.bvslp.com

John S. Burton  
Timothy R. Volkman  
Timothy J. Schmal  
Anna DiBenedetto  
Burleigh E. Sabin

May 6, 2008

VIA E-MAIL RMWpdf@caand.uscourts.gov AND U.S. MAIL  
The Honorable Ronald M. Whyte  
U.S. District Court  
280 South First Street, Room 2112  
San Jose, CA 95113

Re: John Gabor, Kay Gabor v. United States of America,  
Timothy J. Schmal, et al.  
Action No.: C07-06091 RMW  
Our "Clients": Burton, Volkman & Schmal, LLP; Timothy  
James Schmal; & Burleigh E. Sabin  
Our File No: 65824-3-104

Dear Judge Whyte:

I am writing to you in connection with the above-captioned matter, the latest in a series of lawsuits filed by John and Kay Gabor, which was reassigned to you by Order issued on March 17, as was noted by you in your March 31 Order in case number C07-04266RMW, at page 5, lines 5-6.

I am writing to you, instead of e-filing a pleading, since I, my firm, and associate, Mr. Sabin, have never properly been "served with process" in this particular matter by the Gabors, and I thus want to avoid making a "general appearance" in this case. As you will recall, I discussed this latest filing, by the Gabors - C07-06091 RMW - with you, when I appeared at the January 18 hearing of the various cross-motions in connection with the case previously-referenced in this paragraph - C07-04266RMW - which culminated in your March 31 Order.

At the time of the January 18 hearing, I advised Your Honor that I was aware of this latest suit by the Gabors, and, despite

The Honorable Ronald M. Whyte  
May 6, 2008  
Page 2

the fact that the Gabors had sworn and attested, under penalty of perjury (in the text of their original complaint), that they had sent copies of the Summons and Complaint to me, my firm, and my associate, by certified mail, that had never occurred. Eventually, when the Gabors filed an Amended Complaint in this latest matter, they did mail copies to my office, but that mailing does not satisfy the requirements for "service".

In the defendants' Joint Case Management Statement, filed in connection with the August 27, 2007 action (C07-04266RMW), the defendants requested that Your Honor sua sponte dismiss this latest case. At the January 18 hearing, as is reflected in the transcript prepared by your reporter, Ms. Shortridge, I made reference to this lawsuit, and the Joint Case Management Statement's dismissal request. (Transcript, page 7, lns. 17-23.) I noted that, after my firm filed our vexatious litigant motion on September 10, 2007, the Court set a hearing for same on October 26, 2007. (Id. at page 10, lns. 13-16.) I noted that had the motion been heard and granted, seasonably, following an October 26 hearing, the Gabors would never have been allowed to file the now-pending latest lawsuit. (Id.) (Although Your Honor indicated, in your March 31 Order, at page 5, ln. 1, that the latest suit was filed on "November 3", which is the date that the original complaint in the pending lawsuit was "stamped" by a Deputy Court Clerk, it was actually "certified" on the last page by the Gabors on December 3, and e-filed on December 3. Therefore, it is clear that the Court Clerk simply forgot to "turn over" the month on the stamper, on the first business day of December, upon receiving the original Complaint from the Gabors.)

When I reiterated, at the January 18 hearing, my request for a sua sponte dismissal of this remaining pending action, you asked me how you would have the power to dismiss a case that was then-pending before another judge, and not before you. (Id., p. 11, lns. 8-14 and 17-18.) That is no longer a problem, since this case now is pending before you, and calendared for a May 23 Case Management Conference.

As you know, two motions have been filed by co-defendants in this case, as e-filed documents 9 and 10, filed on April 16 and May 2. One is a noticed Motion to Dismiss and fee motion set for

The Honorable Ronald M. Whyte  
May 6, 2008  
Page 3

the date of the Case Management Conference, May 23, and the other is a noticed dismissal motion, set for June 20.

The purpose of my letter is to reiterate my request, to you, that you *sua sponte* dismiss this action, based upon the case cited by the United States of America defendants, Omar v. Sea-Land Service, Inc. (1987) 813 Fed.2d 986, 991, cited by the United States at page 5 of their motion, lns. 20-22. The Omar case clearly states that Your Honor has the inherent authority to dismiss a claim or case, *sua sponte*, without notice to the plaintiffs, under Rule 12(b)(6). (Id.)

As you also know, this latest lawsuit by the Gabors is predicated upon the Gabors' assertion that the actions taken by the defense attorneys, in response to the August 27, 2007 lawsuit, on behalf of their clients, were illegal, and that the Court Clerks and other new defendants on the Amended Complaint "conspired" with the defense lawyers to allow those illegal actions to be undertaken.

Obviously, given various "litigation privileges", all of the defendants in this latest case are immune and exempt from suit. Notably, immunities aside, the actions undertaken by the defense attorneys were not only not illegal, they were legally correct, since Your Honor granted all of the relief requested by the defense attorneys, in connection with the August 27, 2007 lawsuit (C07-04266RMW), in the form of your March 31 Order.

Adding "insult to injury", I now must resort to sending a copy of this letter/request, directed to you, to my law firm's bank, since an issue was raised, in connection with the renewal of my firm's business line of credit, regarding this pending lawsuit (identified through a Google search) against me, my firm, and my associate. This is not an indignity lightly suffered by a zealous advocate, whose efforts ultimately vindicated the interests of a client.

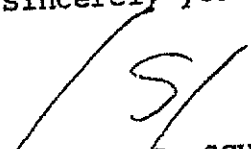
In light of the foregoing, Your Honor's knowledge of the history of these vexatious litigants, and the pending motions by the co-defendants, I would respectfully request that Your Honor *sua sponte* dismiss this latest action forthwith, thereby vacating the May 23 Case Management Conference and motion hearing date as

The Honorable Ronald M. Whyte  
May 6, 2008  
Page 4

moot. As noted in the Omar decision, the plaintiffs herein have absolutely no prospects of prevailing in this matter, and this is, arguably, the most absurd and insulting suit that they have brought to date.

Thank you for your kind consideration of this letter.

Sincerely yours,

  
TIMOTHY J. SCHMAL

TJS:sch

cc: John & Kay Gabor (via U.S. Mail)  
Marcy L. Berkman (via FAX 408-292-7240 and U.S. Mail)  
James A. Scharf (via FAX 408-535-5081 and U.S. Mail)  
Claire T. Cormier (via FAX 408-535-5081 and U.S. Mail)  
Kay K. Yu (via FAX 415-703-1107 and U.S. Mail)  
Wells Fargo Bank, Attn.: Gavin Tripp, Senior Vice-  
President, Central Coast Division Manager (via U.S. Mail)  
Wells Fargo Bank, Attn.: Tess Piazza, Vice-President,  
Business Relationship Manager (via U.S. Mail)

p.s. After initially drafting this, I received your order of yesterday, continuing the hearing on both co-defendants' dismissal motions to June 27th. I presume that the case management conference will still be going forward on May 23rd, as noticed.

-----Tim Schmal

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

COPY

JOHN GABOR AND KAY GABOR, ) C-07-04266 RMW  
PLAINTIFFS, ) SAN JOSE, CALIFORNIA  
VS. ) JANUARY 18, 2008  
COUNTY OF SANTA CLARA ) PAGES 1-13  
BOARD OF SUPERVISORS,  
ET AL.,  
DEFENDANTS.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S :

FOR THE PLAINTIFFS: JOHN GABOR AND KAY GABOR  
IN PROPRIA PERSONA  
590 SMOKEY COURT  
CAMPBELL, CALIFORNIA 95008

FOR DEFENDANT COUNTY: OFFICE OF THE COUNTY COUNSEL  
BY: MARCY L. BERKMAN  
70 W. HEDDING STREET,  
9TH FLOOR, EAST WING  
SAN JOSE, CALIFORNIA 95110

APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595



APPEARANCES (CONTINUED)

FOR DEFENDANTS  
CITY OF CAMPBELL,  
RICH AND  
MORGADO-GRAY:

BURTON, VOLKMANN & SCHMAL, LLP  
BY: TIMOTHY JAMES SCHMAL  
133 MISSION STREET, SUITE 102  
SANTA CRUZ, CALIFORNIA 95060

SCOTT N. SCHOOLS:

UNITED STATES ATTORNEY'S OFFICE  
BY: JAMES A. SCHARF  
150 ALMADEN BOULEVARD, SUITE 900  
SAN JOSE, CALIFORNIA 95113



1 SAN JOSE, CALIFORNIA

JANUARY 18, 2008

2 P R O C E E D I N G S

3 (WHEREUPON, COURT CONVENED AND THE  
4 FOLLOWING PROCEEDINGS WERE HELD:)

5 THE CLERK: NEXT MATTER, C-07-04266, JOHN  
6 GABOR, ET AL, VERSUS THE COUNTY OF SANTA CLARA  
7 BOARD OF SUPERVISORS, ET AL, ON FOR DEFENDANT'S  
8 MOTION TO DISMISS AND MOTION FOR A MORE DEFINITE  
9 STATEMENT AND MOTION TO STRIKE.

10 MS. BERKMAN: GOOD MORNING, YOUR HONOR.  
11 DEPUTY COUNTY COUNSEL MARCY BERKMAN FOR THE COUNTY.

12 MR. SCHARF: JAMES A. SCHARF FOR THE  
13 FEDERAL DEFENDANT FORMER INTERIM UNITED STATES  
14 ATTORNEY SCOTT N. SCHOOLS.

15 MR. SCHMAL: GOOD MORNING, YOUR HONOR.  
16 TIMOTHY SCHMAL FOR DEFENDANT CITY OF CAMPBELL,  
17 DEFENDANT RICH, AND DEFENDANT MORGADO-GRAY.

18 THE COURT: ARE YOU MR. AND MRS. GABOR?

19 MR. GABOR: YES, SIR.

20 THE COURT: OKAY. I DON'T KNOW WHICH ONE  
21 OF YOU WANTS TO SPEAK, BUT WHAT -- WHAT IS THE  
22 FACTUAL BASIS OF YOUR CURRENT CLAIM?

23 IT SOUNDED AS IF, FROM WHAT I READ, THAT  
24 THE PERSON CAME TO THE DOOR, WANTED TO SEARCH, YOU  
25 SAID NO, THEY THREATENED TO GET A SEARCH WARRANT,

1 YOU SAID NO, AND THEY WENT AWAY.

2 MR. GABOR: BASICALLY, YES.

3 THEY CAME TO THE DOOR TO THREATEN MY WIFE  
4 IF THEY DON'T -- IF SHE DOESN'T OPEN THE DOOR AND  
5 ALLOW THEM TO ENTER THE HOUSE AND SEARCH FOR  
6 ANYTHING THAT THEY WANTED TO FIND THAT SHE WAS  
7 MAKING ANY VIOLATION. THEY WOULD DECIDE AND THEN  
8 CHARGE HER. AND THEY WANTED ENTRY WITHOUT A  
9 WARRANT.

10 NOW, WE'VE BEEN IN COURT BEFORE WITH THE  
11 CITY. WE'VE BEEN THROUGH THE COURTS BEFORE.

12 THIS ACTUALLY -- THIS -- WE SHOULDN'T  
13 EVEN HAVE TO BE HERE.

14 BUT THEY WON'T LEAVE US ALONE. THEY  
15 TRAMPLE ON OUR PROPERTY RIGHTS, AND AS LONG AS THEY  
16 DO, WE'RE GOING TO GO TO THE COURTS AND REDRESS AND  
17 SEEK SOME KIND OF RELIEF.

18 THE COURT: BUT THEY DIDN'T GO IN, DID  
19 THEY? YOU REFUSED AND THEY WENT AWAY.

20 MR. GABOR: THAT'S RIGHT. BUT THEY WENT  
21 AWAY WITH A THREAT.

22 THE ONLY THING WE CAN DO IS TO, IS TO  
23 MAKE SURE WE PROTECT OUR PROPERTY RIGHTS.

24 THE COURT: OKAY.

25 MR. GABOR: SO WE'VE BEEN GIVEN THE RIGHT

1 TO ADDRESS THE COURT AND THAT'S, THAT'S WHY WE'RE  
2 HERE.

3 THE COURT: OKAY.

4 MR. GABOR: WE'RE -- WE'RE JUST TIRED OF  
5 BEING HARASSED BY THE CITY.

6 WE FILED OUR CASE. WE NEVER RECEIVED AN  
7 ANSWER. BEEN IN THE COURTS BEFORE, AND ALL THE  
8 YEARS WE'VE BEEN IN THE COURTS SINCE 1984, WE HAVE  
9 NEVER RECEIVED AN ANSWER. COMPLAINT, NO ANSWER.

10 THE COURT: THE --

11 MR. GABOR: JUSTICE ROBERTS HAS MADE IT  
12 VERY CLEAR. HE SAYS THERE IS A COMPLAINT, THERE  
13 HAS TO BE AN ANSWER. NO OTHER MOTIONS.

14 THE COURT: OKAY.

15 MR. GABOR: SO THESE DEFENDANTS ARE IN  
16 DEFAULT.

17 AND WE'VE BEEN DEPRIVED OF AN ANSWER AND  
18 A DEFAULT AGAINST ALL THE DEFENDANTS. THAT'S WHY  
19 WE'RE IN COURT.

20 THE COURT: OKAY. WHAT DOES -- WHAT DOES  
21 ANYBODY OTHER THAN THE PERSON THAT CAME TO THE  
22 DOOR, WHAT WRONG DID THEY DO?

23 MR. GABOR: WHAT WRONG? WELL, THIS HAS  
24 BEEN GOING ON FOR YEARS, HARASSMENT.

25 I MEAN, THIS IS THE FIRST CASE WE

1 FILED --

2 THE COURT: BUT, FOR EXAMPLE --

3 MR. GABOR: THIS IS THE FIRST CASE WE  
4 FILED AGAINST THE CITY. IT'S JUST AN ONGOING  
5 ASSAULT BY THE CITY.

6 THE COURT: BUT WHY DOES THE COUNTY GET  
7 INVOLVED?

8 MR. GABOR: WELL, BASICALLY THE COUNTY  
9 IS -- THE COUNTY IS INVOLVED WHEN YOU, WHEN YOU --  
10 IT'S THEIR RIGHT TO PROTECT US. THEY HAVE THE  
11 RIGHT.

12 AND IT'S PLAINLY PRINTED -- IF YOU EXCUSE  
13 ME A MOMENT.

14 (PAUSE IN PROCEEDINGS.)

15 MR. GABOR: ALL THIS -- ALL THIS  
16 PAPERWORK, I DON'T KNOW.

17 WE'RE GOING BACK TO CALIFORNIA CIVIL CODE  
18 52.1 WHICH SAYS IT'S THE COUNTY'S RIGHT -- IT'S THE  
19 DISTRICT ATTORNEY'S RIGHT TO PROTECT US FROM  
20 ILLEGAL TRESPASS. THEY HAVE TO FILE A CLAIM  
21 AGAINST THE PERSONS THAT DID THIS.

22 WHEN THEY WALKED ON OUR PROPERTY, THEY  
23 TRESPASSED.

24 THE COURT: BUT THE COUNTY DIDN'T WALK ON  
25 YOUR PROPERTY.

1 MR. GABOR: NO, BUT THE CITY DID. AND  
2 IT'S UP TO THE COUNTY TO PROTECT OUR RIGHTS.  
3 PLAINLY WRITTEN IN THE CALIFORNIA CIVIL CODE 52.1.

4 THE COURT: OKAY. THANK YOU.

5 MR. GABOR: ALL RIGHT.

6 MR. SCHMAL: YOUR HONOR, IF I COULD BE  
7 HEARD ON THE TENTATIVES?

8 TIMOTHY SCHMAL FOR THE CITY DEFENDANTS.

9 THE TENTATIVE INDICATES THAT THE  
10 DEFENDANT'S MOTIONS ARE GRANTED. OBVIOUSLY WE WANT  
11 ASSURANCE THAT THE DISMISSAL IS WITH PREJUDICE AND  
12 THAT PLAINTIFFS ARE NOT GIVEN LEAVE TO AMEND.

13 WITH REGARD TO THE VEXATIOUS LITIGANT  
14 ISSUE AND THE NO TENTATIVE ON THAT, I THINK  
15 MR. GABOR JUST DEMONSTRATED YET AGAIN WHY THEY NEED  
16 TO BE DEEMED VEXATIOUS LITIGANTS.

17 AS YOUR HONOR KNOWS FROM THE JOINT CASE  
18 MANAGEMENT STATEMENT SUBMITTED BY THE THREE  
19 DEFENDANTS, WE STAND BEFORE YOU, THESE THREE  
20 LAWYERS TODAY, NOT ONLY AS LAWYERS REPRESENTING THE  
21 PARTIES IN THE PENDING MATTER, BUT WE'RE NOW  
22 STANDING BEFORE YOU AS DEFENDANTS IN THE SIXTH  
23 FILED ACTION OF A MONTH AND A HALF AGO.

24 THE GABORS HAVE CLEARLY DEMONSTRATED THAT  
25 THEY WILL NOT HONOR ANY LEGAL AUTHORITY THAT

1 GOVERNS THEM.

2 THEY HAVE SUED EVERY LEVEL OF THE  
3 GOVERNMENT REPEATEDLY, THE CITY OF CAMPBELL WHERE  
4 THEY RESIDE, THE COUNTY, THE STATE, THE UNITED  
5 STATES OF AMERICA, TWO FORMER GOVERNORS, YOUR  
6 COLLEAGUE JUDGE FOGEL.

7 IF THEY LOSE ON A RULING, THEY SUE THE  
8 JUDICIAL OFFICER.

9 IF THEY DON'T LIKE SOMETHING THAT A  
10 LAWYER SAYS, THEY SUE THE LAWYER.

11 THEY ARE THE QUINTESSENTIAL VEXATIOUS  
12 LITIGANT. THEY RELITIGATE ISSUES THAT THEY HAVE  
13 LOST TIME AND TIME AGAIN.

14 I WAS THE CITY'S ATTORNEY IN THE 2004  
15 CASE THAT WENT UP ON APPEAL IN 2006 ON THE VERY  
16 ISSUE THAT THEY ARE NOW ATTEMPTING TO RELITIGATE,  
17 WHICH IS WHAT MR. GABOR STOOD BEFORE YOU AND SAID  
18 THIS MORNING, WHICH IS "I DON'T GET AN ANSWER."

19 THE NINTH CIRCUIT COURT OF APPEAL HAS  
20 TOLD THEM THEY DON'T GET AN ANSWER BECAUSE IF THEY  
21 FILE A MERITLESS LAWSUIT AND A MOTION TO DISMISS IS  
22 GRANTED, THE CASE IS OVER.

23 THEY APPEAL EVERY SINGLE TIME THAT THEY  
24 LOSE.

25 IT WOULD BE ONE THING IF THIS WERE THE

1 FIRST SUIT THAT THEY FILED. IF IT'S THE FIRST SUIT  
2 THAT THEY FILED, THEY COULD PLEAD IGNORANCE OF THE  
3 LAW, WE MISINTERPRET THINGS, WE DON'T UNDERSTAND  
4 THINGS.

5 BUT WHAT'S HAPPENED IS EVERY TIME THEY  
6 LOSE AN ISSUE, OH, THERE'S A CONSPIRACY. OH, YOUR  
7 HONOR'S CLERKS ARE CONSPIRING TO ALLOW THE DEFENSE  
8 COUNSEL TO FILE THESE ILLEGAL PLEADINGS. OH, NOW  
9 WE KNOW THE CONSPIRACY.

10 THERE'S THIS PENDING MOTION FOR YOU TO  
11 RECUSE YOURSELF, YOUR HONOR, BECAUSE, QUOTE  
12 UNQUOTE, TO QUOTE THE GABORS, THE FIX IS IN.

13 WE'RE ALL IN ON IT. THESE THREE DEFENSE  
14 LAWYERS ARE ALL IN ON IT. YOUR HONOR, YOU'RE IN ON  
15 IT.

16 AND IF THE NINTH CIRCUIT COURT OF APPEALS  
17 IS GOING TO UPHOLD THE LAW WITH REGARD TO THE CITY  
18 OF CAMPBELL'S RIGHT TO BRING A MOTION TO DISMISS IN  
19 THE 2004 ACTION, THEN OBVIOUSLY THEY'RE IN ON IT.

20 EVERYBODY, THE ENTIRE WORLD IS AGAINST  
21 THE GABORS.

22 AND THAT, I WOULD SUBMIT, YOUR HONOR, IS  
23 THE DEFINITION OF A VEXATIOUS LITIGANT.

24 YOU LOOK AT THE FACTORS FOR DETERMINING A  
25 VEXATIOUS LITIGANT UNDER THE SAFIR CASE THAT WE SET



1 FORTH IN OUR MOTION.

2 THE COST TO -- THE CITY OF CAMPBELL, THE  
3 STATE AND THE COUNTY, FORTUNATELY, HAVE HIGHLY  
4 COMPETENT IN-HOUSE ATTORNEYS THAT ASSIST IN  
5 EXTRICATING THE INDIVIDUAL EMPLOYEES AND THOSE  
6 ENTITIES FROM THESE CASES.

7 THE SMALL CITY OF CAMPBELL DOESN'T HAVE  
8 THAT LUXURY. THEY HAVE TO GO OUT AND HIRE FOR FEE  
9 ATTORNEYS LIKE ME AND HAVE PAID TENS OF THOUSANDS  
10 OF DOLLARS BECAUSE OF THE SERIES OF UP UNTIL NOW  
11 FIVE, AND NOW SIX, UTTERLY BASELESS, SPECIOUS  
12 LAWSUITS.

13 IF THE MOTION HAD BEEN HEARD AND GRANTED  
14 ON THE VEXATIOUS LITIGANT AS INITIALLY NOTICED TO  
15 BE HEARD IN OCTOBER, THEY WOULDN'T HAVE BEEN ABLE  
16 TO FILE THIS ACTION DECEMBER 3.

17 AS VEXATIOUS LITIGANTS, TIME AND TIME  
18 AGAIN, THEY LIE AND PERJURE THEMSELVES CLAIMING TO  
19 HAVE SERVED PAPERS ON OPPOSING COUNSEL WHICH THEY  
20 DON'T DO; AND IN THIS LATEST ACTION PENDING IN  
21 FRONT OF MAGISTRATE JUDGE TRUMBULL, THEY REPRESENT  
22 THAT THEY SERVED ME BY REGISTERED AND CERTIFIED  
23 MAIL.

24 I HAVE NEVER RECEIVED THE SUIT PAPERS  
25 FROM THEM EVEN THOUGH IT WAS FILED A MONTH AND A

1 HALF AGO.

2 THESE PEOPLE ARE VEXATIOUS LITIGANTS.  
3 YOUR HONOR HAS THE LEGAL AUTHORITY TO GRANT THE  
4 VEXATIOUS LITIGANT ASPECT OF THE MOTION.

5 YOUR HONOR KNOWS THAT YOU HAVE BOTH THE  
6 FACTUAL AND LEGAL BASES FOR MAKING THAT  
7 DETERMINATION.

8 DEFENSE COUNSEL IN THE JOINT CASE  
9 MANAGEMENT STATEMENT -- AND I GUESS IF THE MOTIONS  
10 ARE GRANTED, CASE MANAGEMENT BECOMES A MOOT  
11 POINT -- BUT WE'VE REQUESTED THAT YOUR HONOR SUA  
12 SPONTE DISMISS THIS OTHER PENDING ACTION BEFORE  
13 MAGISTRATE JUDGE TRUMBULL SUA SPONTE FOR ALL THE  
14 REASONS SET FORTH IN THESE PENDING MOTIONS.

15 AND UNLESS YOUR HONOR HAS SOME QUESTIONS,  
16 I'LL SUBMIT.

17 THE COURT: WHAT POWER DO I HAVE OVER A  
18 CASE THAT'S BEFORE JUDGE TRUMBULL?

19 MR. SCHARF: YOU CAN RELATE THE CASES,  
20 YOUR HONOR, AND, BASED ON RELATING THEM, DISMISS.

21 THE COURT: ALL RIGHT. THANK YOU.

22 MR. GABOR: ANOTHER WORD.

23 THE COURT: JUST A SECOND. LET ME SEE IF

24 THE OTHERS --

25 MR. GABOR: THE MAN JUST STOOD UP THERE

1 AND CALLED ME A LIAR AND EVERYTHING ELSE. NAME  
2 CALLING IS THE BEST THING THEY CAN DO.

3 I WOULD LIKE TO HAVE AN OPPORTUNITY TO  
4 TALK IN THIS COURT.

5 THE COURT: YOU ALREADY HAVE.

6 MR. GABOR: NO, I'M NOT THROUGH YET. HE  
7 JUST CALLED ME A VEXATIOUS LITIGANT.

8 THE COURT: OKAY.

9 MR. GABOR: WE ARE NOT VEXATIOUS  
10 LITIGANTS.

11 THE COURT: ALL RIGHT.

12 MR. GABOR: THEY ARE THE VEXATIOUS  
13 LITIGANTS BECAUSE THEY KEEP THROWING PAPER INTO  
14 THIS COURT.

15 THE COURT: MR. GABOR, I'VE HEARD ENOUGH.  
16 I'VE HEARD ENOUGH FROM EVERYBODY.

17 THE MATTER WILL BE SUBMITTED. THANK YOU.

18 MR. SCHARF: YOUR HONOR, DO WE NEED TO  
19 REMAIN FOR THE 10:30?

20 THE COURT: NO. I WILL --

21 MS. BERKMAN: THANK YOU, YOUR HONOR.

22 MR. GABOR: BASTARD.

23 MR. SCHARF: WE'RE ALL DONE?

24 THE COURT: YES.

25 MR. SCHARF: THANK YOU.


1 THE COURT: OKAY. THANK YOU.

2 (WHEREUPON, THE PROCEEDINGS IN THIS  
3 MATTER WERE CONCLUDED.)  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:


THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.

  
LEE-ANNE SHORTRIDGE, CRR, CRR  
CERTIFICATE NUMBER 9525

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.

  
LEE-ANNE SHORTRIDGE, CRR, CRR  
CERTIFICATE NUMBER 9595

ADRMOP, E-Filing, ProSe

**U.S. District Court  
California Northern District (San Jose)  
CIVIL DOCKET FOR CASE #: 5:07-cv-04266-RMW**

Gabor et al v. County of Santa Clara Board of Supervisors et al  
Assigned to: Hon. Ronald M. Whyte  
Referred to: Magistrate Judge Howard R. Lloyd  
Demand: \$1,000,000  
Cause: 42:1983 Civil Rights Act

Date Filed: 08/20/2007  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: U.S. Government Plaintiff

**Plaintiff**

**John Gabor**

represented by **John Gabor**  
590 Smokey Court  
Campbell, CA 95008-3717  
408-378-4326  
PRO SE

**Plaintiff**

**Kay Gabor**

represented by **Kay Gabor**  
590 Smokey Court  
Campbell, CA 95000-3717  
408-378-4326  
PRO SE

V.

**Defendant**

**County of Santa Clara Board of  
Supervisors  
in their official capacity**

represented by **Marcy Berkman**  
Attorney at Law  
70 West Hedding Street, 9th Floor, East  
Wing  
San Jose, CA 95110  
408-299-5900  
Email: marcy.berkman@cco.sccgov.org

**ATTORNEY TO BE NOTICED**

**Defendant**

**Ken Yeager  
in his municipal and individual capacity**

**Defendant**



**MUST SEE ABC'S 20/20 June**

**3<sup>rd</sup> This Friday's Expose'**

**See How Animal Rescuers Steal Prize Animals from Breeders  
Then Accuse them Falsely of Animal Cruelty**

**They Sell the Stolen Animals Immediately & keep  
the money saying they are abused & neglected**

**3 Year Investigation into the  
SLOPPY INCOMPETENCE of  
SPCA/Humane Societies**

**Judges-DAs-City Attorneys-Police-Sheriffs-Constables &  
Our Legislators go along with it**

**Are They're in on it too? Lives are Devastated.  
Suicide-Jail-Savings Depleted. We've all been  
Fooled into donating to these groups**

**They Kill & Put the Pets to Sleep**

**PLEASE DON'T FAIL TO WATCH**

**ABC 20/20 Friday June 3<sup>rd</sup>**

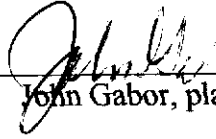
**EST: 10:00 p.m. Central: 9:00 p.m. PST: 10:00 p.m.**

**SPREAD THE WORD**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing PLAINTIFFS NOTICE OF EXPERT WITNESS. was served, pursuant to Federal Rules of Civil Procedure, Rule 5(a), upon all parties, *not in default*, listed below on this 5<sup>th</sup> day of June, 2008

/s/



John Gabor, plaintiff

**DEFENDANTS NOT IN DEFAULT**

Claire T. Cormier for federal defendants  
United States Attorney's Office  
150 Almaden Blvd, Suite 900  
San Jose, CA. 95113

Kay K. Yu for defendant Solomon  
California Attorney General's Office  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA. 94102-3664